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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,041	09/24/2003	Michael Deimling	P03,0352	5053
26574	7590	08/13/2004	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473				DAHBOUR, FADI H
ART UNIT		PAPER NUMBER		
		3743		

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/670,041	DEIMLING, MICHAEL 
	<b>Examiner</b> Fadi H. Dahbour	<b>Art Unit</b> 3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

FDI MLL

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/23/04</u> .	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6-16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP-08289878A (English abstract).

JP-08289878A discloses a device for fixing a head of a patient in a medical imaging examination (Figures a & b), comprising a fixing arrangement adapted to interact with a head of a patient to fix a position of the head (1), and an acoustic signal emitter integrated into the fixing arrangement adapted to emit an acoustical signal perceivable by the patient (2, 3, 4, also see “air transmission type speaker 2...cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2...and a connector 4 for the speaker” in abstract), wherein the fixing arrangement is adjustable relative to the head of the patient (Figures a & b), wherein the acoustic signal emitter is a headphone (Figures a & b), wherein the acoustic signal emitter is a stethoscope-type headphone (Figures a & b) with pneumatic sound transmission (see “air transmission type speaker 2...cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2...and a connector 4 for the speaker” in abstract), further comprising a sound source connected to the acoustic signal emitter (see “air transmission type speaker

2...cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2...and a connector 4 for the speaker" in abstract), comprising an air tube connecting the sound source to the acoustic signal emitter (3), wherein the medical imaging examination device has a patient positioning device (1) and wherein the air tube is adapted to be integrated into the patient positioning device (see "cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2" in abstract), wherein the fixing arrangement and the acoustic signal emitter are compatible for use in magnetic resonance tomography (see "a magnetic resonance imaging device provided with a means for relaxing a testee body without affecting a magnetic field" in abstract), further comprising shielding for the fixing arrangement that suppresses electric magnetic transmission into and out of the fixing arrangement (see "a magnetic resonance imaging device provided with a means for relaxing a testee body without affecting a magnetic field" in abstract), wherein the fixing arrangement and the acoustic sound emitter are substantially free of electrically conductive materials (see "a magnetic resonance imaging device provided with a means for relaxing a testee body without affecting a magnetic field" in abstract), wherein the fixing arrangement and the acoustic signal emitter are substantially free of magnetic materials (see "a magnetic resonance imaging device provided with a means for relaxing a testee body without affecting a magnetic field" in abstract), a medical imaging examination device comprising a patient positioning device adapted to receive a patient thereon (1), a fixing arrangement disposed on the patient positioning device adapted to interact with a head of the patient to fix a position of the head of the patient on the

patient positioning device (7), and an acoustic signal emitter integrated into the fixing arrangement (see "air transmission type speaker 2...cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2...and a connector 4 for the speaker" in abstract), a sound-transmitting channel proceeding from the acoustic signal emitter and integrated in the patient positioning device (see "air transmission type speaker 2...cable 3 for a speaker for transmitting music or the like from an audio equipment to the air transmission type speaker 2...and a connector 4 for the speaker" in abstract).

3. Claims 1, 3 are rejected under 35 U.S.C.102(b) as being anticipated by Nordan et al.

Nordan discloses a device for fixing a head of a patient in a medical imaging examination (Figures 1-2), comprising a fixing arrangement adapted to interact with a head of a patient to fix a position of the head (Figs.1-2), and an acoustic signal emitter integrated into the fixing arrangement adapted to emit an acoustical signal perceptible by the patient (18 of Figs.1-2, also see "each earmuff 18 incorporates a earphone which may be connected to a sound system" in lines 12-14 of col.2, also see "the speakers provide a means of communication whereby the surgeon may talk to the patient during procedures, while the piping of music or other sound entertainment during surgery" in lines 33-36 of col.2), wherein the fixing arrangement comprises a frame and fixing elements adapted to interact with the head of the patient (Figs.1-2), and respective threaded spindles mounted to the frame for adjusting the respective fixing elements (20, 15 of Figs.1-2), wherein the fixing arrangement comprises ear enclosures (18 of Figs.1-2, also see "each earmuff 18" in line 12 of col.2).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nordan et al in view of Liverani.

Nordan, as described above, discloses all the features claimed except the ear enclosures comprising soundproofing material. Liverani discloses ear enclosures comprising soundproofing material (Figures 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the feature taught by Liverani, in the device of Nordan, because Liverani teaches that it serves to minimize the effect of sound leakage in the ear enclosures (see line 51 of column 2 of Liverani).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zuesse, Whidden, Eriksson, Sharon et al, Harris et al and Tommaney are cited to show devices for patients.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 703-306-5479. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*FDH*

Fadi H. Dahbour  
Examiner  
Art Unit 3743